

110TH CONGRESS
1ST SESSION

H. R. 685

To amend the Social Security Act to eliminate the 5-month waiting period for Social Security disability and the 24-month waiting period for Medicare benefits in the cases of individuals with disabling burn injuries.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 2007

Mr. NEAL of Massachusetts introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Social Security Act to eliminate the 5-month waiting period for Social Security disability and the 24-month waiting period for Medicare benefits in the cases of individuals with disabling burn injuries.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Social Security and
5 Medicare Improved Burn Injury Treatment Access Act of
6 2007”.

7 **SEC. 2. FINDINGS.**

8 Congress makes the following findings:

1 (1) Terrorist acts, such as the September 11,
2 2001 attacks in New York and Washington, D.C.
3 and attacks in countries throughout the world,
4 major accidental events, chemical plant explosions,
5 airplane crashes, and major industrial accidents, re-
6 sult in a substantial number of burn-injured pa-
7 tients.

8 (2) In most major traumatic events, 25 percent
9 to 30 percent of the injured will require burn care
10 treatment. About one-third of those hospitalized in
11 New York on September 11th had severe burn inju-
12 ries.

13 (3) According to the American Burn Associa-
14 tion (ABA), which is the national professional soci-
15 ety representing hospitals with burn centers, as well
16 as burn surgeons, nurses, therapists, and other
17 members of the burn care team, there are only 128
18 burn centers in the United States. The total burn-
19 bed capacity at all burn centers in the United States
20 is 1,835 beds. Burn centers in four States have
21 closed, with a loss of several beds, which further di-
22 minishes the nation's ability to handle the mass
23 burn casualties that could result from a major ter-
24 rorist attack.

1 (4) Burn centers are a national resource that
2 must be preserved and strengthened as part of the
3 nation's preparedness activities to deal with terrorist
4 attacks or other disasters that would likely lead to
5 mass burn casualties.

6 (5) Based on a study of over 54,000 burn cases
7 over a 20-year period of time, the ABA in its 2002
8 National Burn Repository Report indicates that 38
9 percent of burn-injured patients treated in burn cen-
10 ters were uninsured. This high level of uncompen-
11 sated care threatens the survival of burn centers, the
12 continued existence of which is essential to the emer-
13 gency preparedness efforts of the United States.

14 (6) Burn injuries are among the most costly to
15 treat and require immediate medical attention.

16 (7) Because of the necessity of providing imme-
17 diate care in the case of burn injuries, the waiting
18 periods established for Medicare coverage for dis-
19 abled burn patients should be waived and it is essen-
20 tial for Medicare to reimburse the costs of such burn
21 treatment to ensure the financial survival of burn
22 centers.

1 **SEC. 3. ELIMINATION OF 5-MONTH SOCIAL SECURITY DIS-**
2 **ABILITY WAITING PERIOD IN CASES OF INDIV-**
3 **IDUALS WITH DISABLING BURN INJURIES.**

4 (a) DISABILITY INSURANCE BENEFITS.—Section
5 223(a) of the Social Security Act (42 U.S.C. 423(a)) is
6 amended by adding at the end the following new para-
7 graph:

8 “(3)(A) In the case of any individual who has a dis-
9 abling burn injury and is not entitled to disability insur-
10 ance benefits under this section for any month solely by
11 reason of the waiting period under clause (i) in the first
12 sentence of paragraph (1), the Commissioner of Social Se-
13 curity shall waive the application of the waiting period,
14 and, notwithstanding clauses (i) and (ii) of the first sen-
15 tence of paragraph (1), such individual shall be entitled
16 to disability insurance benefits for each month, beginning
17 with the first month during all of which such individual
18 is under a disability and in which such individual would
19 become so entitled to such insurance benefits under such
20 sentence but for such waiting period, and ending as pro-
21 vided in paragraph (1).

22 “(B) For purposes of subparagraph (A) and sections
23 202(e)(5)(C), 202(f)(6)(C), and 216(i)(2)(A)(ii), an indi-
24 vidual is considered to have a ‘disabling burn injury’ if
25 the individual has a burn injury that satisfies a finding
26 of disability in accordance with the Social Security Admin-

1 istration’s publication, ‘Disability Evaluation under Social
2 Security’ (Blue Book, January 2005) for purposes of es-
3 tablishing eligibility for benefits under this title.”.

4 (b) WIDOW’S INSURANCE BENEFITS BASED ON DIS-
5 ABILITY.—Section 202(e)(5) of such Act (42 U.S.C.
6 402(e)(5)) is amended by adding at the end the following
7 new subparagraph:

8 “(C) In the case of any individual who has a disabling
9 burn injury (as described in section 223(a)(3)(B)) and is
10 not entitled to widow’s insurance benefits under this sec-
11 tion for any month solely by reason of the waiting period
12 under paragraph (1)(F)(i), the Commissioner of Social Se-
13 curity shall waive the application of the waiting period,
14 and, notwithstanding clauses (i) and (ii) of paragraph
15 (1)(F), such individual shall be entitled to widow’s insur-
16 ance benefits for each month, beginning with the first
17 month during all of which she is under a disability and
18 in which she would become so entitled to such insurance
19 benefits under paragraph (1) but for such waiting period,
20 and ending as provided in paragraph (1).”.

21 (c) WIDOWER’S INSURANCE BENEFITS BASED ON
22 DISABILITY.—Section 202(f)(6) of such Act (42 U.S.C.
23 402(f)(6)) is amended by adding at the end the following
24 new subparagraph:

1 “(C) In the case of any individual who has a disabling
 2 burn injury (as described in section 223(a)(3)(B)) and is
 3 not entitled to widower’s insurance benefits under this sec-
 4 tion for any month solely by reason of the waiting period
 5 under paragraph (1)(F)(i), the Commissioner of Social Se-
 6 curity shall waive the application of the waiting period,
 7 and, notwithstanding clauses (i) and (ii) of paragraph
 8 (1)(F), such individual shall be entitled to widower’s in-
 9 surance benefits for each month, beginning with the first
 10 month during all of which he is under a disability and
 11 in which he would become so entitled to such insurance
 12 benefits under paragraph (1) but for such waiting period,
 13 and ending as provided in paragraph (1).”.

14 (d) COMMENCEMENT OF PERIOD OF DISABILITY.—
 15 Section 216(i)(2)(A) of such Act (42 U.S.C. 416(i)(2)(A))
 16 is amended—

- 17 (1) by inserting “(i)” after “(2)(A)”;
- 18 (2) by inserting “(I)” after “but only if”;
- 19 (3) by inserting “(II)” after “duration or”; and
- 20 (4) by adding at the end the following new
- 21 clause:

22 “(ii) In any case in which an individual has a dis-
 23 abling burn injury (as described in section 223(a)(3)(B))
 24 and a month is not included within a period of disability
 25 of such individual solely by reason of the 5-month duration

1 requirement under clause (i)(I), the Commissioner of So-
 2 cial Security shall waive the application of such require-
 3 ment, and, notwithstanding clause (i)(I), such month shall
 4 be included in a period of disability.”.

5 (e) EFFECTIVE DATES.—The amendments made by
 6 subsection (a) shall apply only with respect to benefits
 7 under section 223 of the Social Security Act, or under sec-
 8 tion 202 of such Act on the basis of the wages and self-
 9 employment income of an individual entitled to benefits
 10 under such section 223, for months beginning after the
 11 date of the enactment of this Act. The amendments made
 12 by subsections (b) and (c) shall apply only with respect
 13 to benefits based on disability under subsection (e) or (f)
 14 of section 202 of the Social Security Act for months after
 15 the date of the enactment of this Act. The amendments
 16 made by subsection (d) shall apply only with respect to
 17 applications for disability determinations filed under title
 18 II of the Social Security Act after the date of the enact-
 19 ment of this Act.

20 **SEC. 4. ELIMINATION OF 24-MONTH MEDICARE DISABILITY**
 21 **WAITING PERIOD IN CASES OF INDIVIDUALS**
 22 **WITH DISABLING BURN INJURIES.**

23 (a) IN GENERAL.—Section 226(h) of the Social Secu-
 24 rity Act (42 U.S.C. 426(h)) is amended, in the matter pre-
 25 ceding paragraph (1), by inserting “or a disabling burn

1 injury (as described in section 223(a)(3)(B))” after
2 “amyotrophic lateral sclerosis (ALS)”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall apply to benefits under title XVIII of
5 the Social Security Act with respect to items and services
6 furnished in months beginning after the date of the enact-
7 ment of this Act.

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